

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 27TH FEBRUARY 2007 / 8TH PHALGUNA 1928

OP.No. 31907 of 1999(W)

PETITIONER:

TREND SETTERS INSTYLE (INDIA) LTD., 20, CEPZ,
KAKKANAD, COCHIN-30.

BY ADV. SRI.B.S.KRISHNAN (SR.)

RESPONDENTS:

1. THE DISTRICT EXECUTIVE OFFICER, KERALA TAILORING
WORKERS WELFARE FUND BOARD, PALARIVATTOM, ERNAKULAM.
2. KERALA TAILORING WORKERS WELFARE FUND BOARD, REP. BY
ITS SECRETARY, THIRUVANANTHAPURAM.

BY ADV. SRI.B.GOPAKUMAR
SMT.CHINCY GOPAKUMAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 27/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF NOTICE DT. 18-10-1999.

EXT.P2 STATEMENT DT. 17-8-1999.

S. Siri Jagan, J.

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O.P. No. 31907 of 1999

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Dated this, the 27th February, 2007.

J U D G M E N T

This original petition is filed by an employer employing tailoring workers challenging Ext. P1 notice issued by the respondents demanding contribution under the Kerala Tailoring Workers Welfare Fund Act, 1994 (for short 'the Act'). According to the petitioner, since the employees of the petitioner are covered under the Employees Provident Funds and Miscellaneous Provisions Act, Labour Welfare Fund Act as also Employees State Insurance Act, going by the provisions of the Act, the establishment is not liable to be covered under the Act.

2. An identical question has been considered by a learned Single Judge of this Court in O.P.No. 31791/1999, in which the following judgment was passed:

“Petitioner is a tailoring establishment. Petitioner is questioning coverage under the Kerala Tailoring Workers Welfare Fund Act, 1994 (hereinafter referred to as 'The Act'). Section 4(1) of the Act provides that any tailoring worker who has completed 18 years of age and who is not a member of any Welfare Fund Scheme established under any law at any time shall be registered under the Act and Scheme. It is the contention of the petitioner establishment that workers in their establishment are subscribers under the Employees Provident Fund Act and Miscellaneous Provisions Act. So long as they are covered under the above beneficiary Scheme they are not liable to cover under the Scheme framed under the Act in question.

2. Learned counsel for the respondents submitted that what is exempted under Section 4(1) is only those persons who are covered under a similar Scheme and Provident Fund Scheme cannot be considered as a similar Scheme. Therefore, members of the petitioner establishment are liable to be covered.

3. Under the Employees Provident Fund Scheme the workers are getting all the similar benefits by the Scheme framed under the Act in question. Apart from that petitioner's employees are also covered under the E.S.I. Scheme so that they are getting medical benefits also. So long as employees

employed by the petitioner establishment are covered under the E.P.F. Act and E.S.I. Act, in view of Section 4(1) of The Act they are not liable to be registered under the Scheme framed under the Kerala Tailoring Workers Welfare Fund Act. However, respondents should check up whether all persons employed by the petitioner are covered under the above Schemes and if any person employed by the petitioner are not covered under the E.P.F and E.S.I. Schemes, respondents shall compel them to register under the Kerala Tailoring Workers Welfare Fund Scheme.

The Original Petition is disposed of accordingly.”

The facts in this case are exactly identical to that case. On a reading of the judgment in that case, I do not find any reason to take a different view and I fully agree with the said decision. In the above circumstances, this original petition is disposed of as follows.

So long as the employees employed by the petitioner-establishment are covered under the E.P.F and E.S.I Act and the Labour Welfare Fund Act, in view of Section 4(1) of the Act, the employees of the petitioner-establishment are not liable to be registered under the scheme framed under the Act. However, respondents are directed to check up whether all persons employed by the petitioner are covered under the above Acts and if any persons employed by the petitioner are not covered under the E.P.F and Labour Welfare Schemes, respondents would be at liberty to compel the petitioner to register those employees under the Act.

Sd/- S. Siri Jagan, Judge.

Tds/